

Agreement to Provide Global Positioning Satellite Electronic Monitoring Services

This Agreement is entered into by and between Leon County, a political subdivision of the State of Florida, hereinafter referred to as "County" and Pro Tech Monitoring, Inc., hereinafter referred to as the "Contractor".

WHEREAS, the County desires to engage the Contractor to provide Global Positioning and Satellite (GPS) with Remote Tracking Services and Support Services, rather than hire the necessary personnel to perform such services.

NOW, THEREFORE, the County and the Contractor, hereinafter the "Parties" FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, agree as follows:

- I. Contract Documents:** The terms and conditions specified in this Agreement, including the Florida Department of Corrections Contract (Department of Corrections Contract) attached hereto as Exhibit A and incorporated herein by reference, as well as any other attachments and exhibits, if any, constitute the Contract Documents.
- II. Services to be Provided:** Contractor agrees to provide the following Services to the County:
 - A.** Passive and Active GPS monitoring. Such monitoring services shall be provided in accordance with the specifications as provided in Exhibit A.
 - B.** Contractor shall lease GPS monitoring units to the County in accordance with the provisions of Exhibit A.
 - C.** Contractor shall maintain a Crime Scene Correlation System and provide access to such system to County and other law enforcement entities designated by the County.
- III. Payment for Services:**
 - A.** The Contractor shall be remunerated by the County in accordance with the following rate for such services provided: Passive Monitoring services are to be provided at a rate of \$4.25 per day and Active Monitoring services are to be provided at a rate of \$8.97 per day.
 - B.** Payment shall be rendered by the County within 30 days of receipt and approval of an appropriate invoice for services.

Warranties and Limitations of Liability

- A. The County shall be entitled to any warranties on leased equipment that are provided by the manufacturer of such equipment and which can be assigned to the County. Contractor warrants that it has the right to lease the products and provide the services to the County hereunder.
- B. Contractor expressly disclaims any warranty that its monitoring service or its system is impervious to tampering. In no event does Contractor assume or bear any responsibility or liability for acts that may be committed by an Offender or persons subject to or using such products.
- C. Contractor shall not be liable for any failure or delay in performance hereunder which is due in whole or in part to any cause beyond its control.
- D. It is understood that the responsibility for designating levels of monitoring for each Offender shall be that of the County. Any failure of the County to designate a proper level of monitoring for any Offender shall be the responsibility of the County.
- E. It is understood that the Contractor relies upon the infrastructure and services of certain third parties, such as communication systems; and the system services provided by the Contractor may be subject to the latency and failure of these third party infrastructures and services.

IV. Indemnification:

- A. The Contractor agrees to indemnify and hold harmless the County employees from all claims, damages, liabilities, or suits of any nature whatsoever arising out of, because of, or due to the breach of this Agreement by the Contractor, its officials, agents or employees, or due to any act or occurrence of omission or commission of the Contractor, including but not limited to costs and a reasonable attorney's fee. The County may, at its sole option, defend itself or allow the Contractor to provide the defense. The Contractor acknowledges that ten dollars (\$10.00) of the amount paid to the Contractor is sufficient consideration for the Contractor's indemnification of the County.

V. Assignments and Subcontracts:

- A. Data derived from the monitoring services provided by Contractor in accordance with terms and conditions of this Agreement shall become the sole property of the County. Such data shall not be used or transmitted in any way or manner without the prior written consent of the County. Further, Contractor shall transmit, send or deliver by whatever means necessary to any such person as designated by the County, with in a reasonable time of such request.

- B. The Contractor shall neither assign responsibility for this Agreement to another party nor subcontract for any of the work contemplated under this Agreement without prior written approval of the County, which approval shall not be unreasonably withheld. Any sublicense, assignment or transfer otherwise occurring without prior written approval of the County shall be null and void.
- C. Any subcontract shall be evidenced by written document. The Contractor further agrees that the County shall not be liable to the subcontractor in any way or for any reason. The Contractor, at its own expense, shall defend and hold harmless the County, its officers, officials, employees and agents, against any such claims brought.

VI. Independent Capacity of Contractor:

- A. The Contractor shall act in the capacity of an independent contractor and not as an officer, employee, or agent of Leon County. Neither the Contractor nor its agents, employees, subcontractors or assignees shall represent or hold themselves out to others that it is the authority defined as Leon County, Florida, or employees or agents of the County.
- B. The Contractor agrees to take such actions as may be necessary to ensure that each subcontractor of Contractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venture or partner of Leon County.
- C. The County will not furnish services of support (e.g., office space, office supplies, telephone service, secretarial or clerical support) to the Contractor, or its subcontractor or assignee, unless specifically agreed to by Leon County in this Agreement.

VII. Audits, Inspections, Investigations, Records and Retention:

- A. Contractor agrees to establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by the County under this Agreement.
- B. Contractor agrees to retain all client records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this Agreement for a period of six years after completion of the Agreement. If an audit has been initiated, and audit findings have not been resolved at the end of the six years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of this Agreement, at no additional cost to the County. Records shall be retained for longer periods when the retention period required by law exceeds the time frames required by this Agreement.

- C. Upon demand, at no additional cost to the County, Contractor shall facilitate the duplication and transfer of any records or documents during the required retention period, to ensure that these records shall be subject at all reasonable times to inspection, review, copying, or audit by Federal, State, or other personnel duly authorized by the County.
- D. At all reasonable times, for as long as records are maintained, persons duly authorized by the County to inspect and copy any records, papers, documents, facilities, goods and services of the Contractor which are relevant to this Agreement, and to interview any clients, or employees, to ensure the County of the satisfactory performance of the terms and conditions of this Agreement. For such review, the County will deliver to the Contractor a written report of its findings and request for development of a corrective action plan where appropriate, by the Contractor. The Contractor hereby agrees to timely correct any deficiencies identified in the corrective action plan.
- E. Contractor agrees to provide a financial compliance audit to the County and to ensure that all related party transactions are disclosed to the auditor.
- F. Contractor agrees to comply and cooperate immediately with any inspections, reviews, investigations, or audits, when deemed necessary by the County.
- G. Contractor agrees to include the aforementioned audit, inspections, investigations and record keeping requirements in all subcontract and assignments, if any, specifically authorized herein.

VIII. Contract Commencement, Revisions and Termination

- A. **Effective and ending dates:** This Agreement shall commence on July 3, 2005. This Agreement shall terminate at midnight, local time in Tallahassee, Florida, on September 30, 2005, unless otherwise extending. This Agreement may be extended for two (2) additional one (1) year terms, at the sole option of the County.
- B. **Revisions:** In any case where, in fulfilling the requirements of this Agreement or of any guarantee, embraced or required hereby, it is deemed necessary for the Contractor to deviate from the requirements of this Agreement, the Contractor shall obtain the prior written consent of the County.
- C. **Termination:**
 - i. **Without Cause.** This Agreement may be terminated by the County without cause upon no less than 30 calendar days notice in writing to the Contractor, unless a sooner time is mutually agreed upon in writing by the Parties. Said notice shall be delivered by United States Postal Service or any expedited

delivery service that provides verification of delivery, or by hand delivery to the County Administrator or representative of the Contractor.

ii. For Cause. This Agreement may be terminated as a result of the Contractor's non-performance and/or breach of this Agreement upon not less than 24 hours written notice to the Contractor. Failure to object to a breach of any provisions of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms and conditions of this Agreement. The provisions herein do not limit the County's right to any other available remedies at law or in equity. Failure to have performed any contractual obligations in the Agreement in a manner satisfactory to the County shall be deemed sufficient cause for termination.

iii. Unavailability of Funds: In the event that funds for payment pursuant to this Agreement become unavailable or inadequate, the County may terminate this Agreement upon not less than 24 hours notice in writing to the Contractor. Said notice shall be sent by United States Postal Service or any expedited delivery service that provides verification of delivery. The County shall be the final authority as to the availability and/or adequacy of funds. In the event of termination of this Agreement, the provider will be compensated only for any work performed under this Agreement which has been satisfactorily completed.

D. Renewal: The County, within its sole discretion, may exercise two, one year options to renew this agreement, on the same terms and conditions as herein stated.

IX. Miscellaneous

- A. Governing Law:** This Agreement is executed and entered into in the State of Florida, and shall be construed, performed and enforced in all respects in accordance with Florida Law including Florida provisions for conflict of laws.
- B. Venue:** Venue for all actions arising out of this Agreement or as a result thereof shall lie in Leon County, Florida.
- C. Severability:** If any of the provisions of this Agreement should be declared illegal, void, or unenforceable, the other provisions shall not be affected thereby but shall remain in full force and effect.
- D. Civil Rights Requirements:** The Contractor shall not discriminate against any employee in the performance of this Agreement or against any applicant for employment because of age, race, religion, color, disability, national origin, or sex. The Contractor further agrees that all subcontractors, or others with whom it arranges to provide services or benefits to participants or employees in conjunction with any of its programs and activities are not discriminated against because of age, race, religion, color, disability, national origin, or sex.

- E. Public Entity Crime:** Pursuant to Section 287.133, Florida Statutes, the following restrictions are placed on the ability of persons convicted of a public entity crime to transact business with Leon County: when a person or affiliate has been placed on the convicted vendor list following a conviction for public entity crime, he/she may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or the repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category two, for a period of 36 months from the date of being placed on the convicted vendor list.
- F. Publicity:** Without limitation, the Contractor and its employees, agents, and representatives shall not, without prior written approval of the County, in each instance, use in advertisement, publicity or other promotional endeavor any County mark, the name of the County, or any County officer or employee, nor represent directly or indirectly, that any products or services provided by the Contractor have been approved or endorsed by Leon County or refer to the existence of this Agreement in press releases, advertising or materials distributed by the Contractor to its respective customers.
- G. Use of Funds for Lobbying Prohibited:** The Contractor agrees not to utilize directly or indirectly, contract funds for the purpose of lobbying the Leon County Board of County Commissioners, the Legislature, the Judicial Branch, or a State Agency.
- H. Requirements of Section 287.058, Florida Statutes:** To allow public access to all documents, papers, letters, or other public records as defined in Section 119.011(1), Florida Statutes, made or received by the Contractor in conjunction with this Agreement, except those public records which are made confidential by law. It is expressly understood that the Contractor's failure to comply with this provision shall constitute an immediate breach of contract for which the County may unilaterally terminate this Agreement.
- I. Licensure:** The Contractor shall be responsible for obtaining and maintaining their City and/or County Occupational Licenses and any license or professional fees required to be paid pursuant to the laws of the State of Florida, Leon County, or the City of Tallahassee.
- X. All Terms and Conditions Included:** This Agreement and its attachments, if any, and any exhibits referenced in said attachments, together with any documents incorporated by reference, contain all the terms and conditions agreed upon by the parties. There are no provisions, terms, conditions or obligations other than those contained herein, and this

Agreement shall supercede all previous communications, representations, or Agreements, either verbal or written between the parties.

By signing this ten page Agreement, the Parties agree that they have read and agree to the entire Agreement, as described in Paragraph I. above.

IN WITNESS THEREOF, the parties hereto have caused this ten page Agreement to be executed this ____ day of June, 2005, by their undersigned officials as duly authorized.

Pro Tech Monitoring, Inc.

BY _____
STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this ____ day of ____ 2005, by _____ who is personally known to me or who has produced _____ as identification, and who did take an oath.

printed name:
NOTARY PUBLIC

SEAL

Typed or printed name _____
My Commission expires _____

LEON COUNTY, FLORIDA

BY: _____
Cliff Thael, Chairman
Board of County Commissioners

ATTEST:
Bob Inzer, Clerk of the Court
Leon County, Florida

BY: _____

Approved as to Form:
Leon County Attorney's Office

BY: _____
Herbert W.A. Thiele, Esq.
County Attorney